

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Bryan M. Gantt, #197653,	)	C/A NO. 3:06-1398-CMC-JRM
	)	
Petitioner,	)	
	)	<b>OPINION and ORDER</b>
v.	)	
	)	
A.J. Padula, Warden; Henry McMaster,	)	
Attorney General of the State of South	)	
Carolina,	)	
	)	
Respondents.	)	
_____	)	

This matter is before the court on Petitioner's *pro se* petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation. On January 26, 2007, the Magistrate Judge issued a Report recommending that Respondents' motion for summary judgment be granted. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner filed objections to the Report on February 21, 2007.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the

recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and the objections of Petitioner, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Petitioner contends that he should benefit from equitable tolling because the South Carolina courts should have transferred his second Post-Conviction Relief (PCR) application to this court. *See* Objections at 3 (Dkt. # 13, filed Feb. 21, 2007). This argument is without merit.

IT IS THEREFORE ORDERED that Respondents' motion for summary judgment is granted, and this matter is dismissed with prejudice.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
February 27, 2007

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